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MARINE TERMINALS CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES TROY WALKER,

Plaintiff,

v.

PACIFIC MARITIME ASSOCIATION;
INTERNATIONAL LONGSHORE
UNION LOCAL 10; MARINE
TERMINALS CORPORATION;
PACIFIC C&H SUGAR,

Defendants.

No. C07-03100 BZ

**NOTICE OF MOTION AND MOTION
TO DISMISS ENTIRE ACTION OF
DEFENDANT MARINE TERMINALS
CORPORATION [PURSUANT TO
F.R.C.P. RULE 12(b)(6)]**

Date: September 19, 2007
Time: 10:00 AM
Courtroom: G, 15th Floor
Magistrate Judge Bernard Zimmerman

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September 19, 2007, at 10:00 AM, at Courtroom G of the above-entitled court, located at 450 Golden Gate Avenue, San Francisco, California, defendant MARINE TERMINALS CORPORATION ("MTC") will and hereby does move to dismiss plaintiff JAMES TROY WALKER's complaint filed in this action pursuant to F.R.C.P. Rule 12(b)(6), on the basis that the complaint in this action fails to state a claim upon relief can be granted.

Plaintiff's failure to state a claim upon which relief is based and grounded upon the fact that plaintiff was injured on May 1, 2002, as an employee of MTC, and his exclusive remedy is a worker's compensation claim pursuant to the Longshore and

1 Harbor Workers' Compensation Act ("LHWCA"), as found at 33 U.S.C. §901, et seq.,
2 which he has previously filed (Case No. 2005-LHC-1474 and OWCP No. 13-101312).
3 Plaintiff's exclusive remedy is under the LHWCA, pursuant to 33 U.S.C. §905(a), and
4 he is legally barred from filing this action against MTC under said exclusive remedy
5 provisions of the Act. Therefore, this complaint must be dismissed.

6 This motion is based upon this notice of motion and motion, the accompanying
7 memorandum of points and authorities filed in support hereof, plaintiff's complaint filed
8 in this action, the attachments served with the summons and complaint in this action,
9 and the complete court file in this action, and any such other matters that be brought to
10 the court's attention at the hearing on this motion.

11 DATED: July 10, 2007

Respectfully submitted,

12 LAW OFFICES OF GARY A. ANGEL

13 /s/ Gary A. Angel

14 Gary A. Angel, Attorneys for Defendant
MARINE TERMINALS CORPORATION

Re: Walker v. PMA, et al.

PROOF OF SERVICE

I declare that:

I am over the age of 18 and not a party to the within action; my business address is 177 Post Street, Suite 890, San Francisco, California, 94108.

On July 10, 2007, I served the following document(s):

1. NOTICE OF MOTION AND MOTION TO DISMISS ENTIRE ACTION OF DEFENDANT MARINE TERMINALS CORPORATION [PURSUANT TO F.R.C.P. RULE 12(b)(6)];
2. DEFENDANT MARINE TERMINALS CORPORATION'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO DISMISS ENTIRE ACTION [PURSUANT TO F.R.C.P. RULE 12(b)(6)];
3. DECLARATION OF KEN AULETTA IN SUPPORT OF MOTION TO DISMISS ENTIRE ACTION OF DEFENDANT MARINE TERMINALS CORPORATION [PURSUANT TO F.R.C.P. RULE 12(b)(6)];
4. [PROPOSED] ORDER GRANTING DEFENDANT MARINE TERMINALS CORPORATION'S MOTION TO DISMISS ENTIRE ACTION [PURSUANT TO F.R.C.P. RULE 12(b)(6)]

on the parties in said action, by placing true copies thereof in sealed envelopes addressed as shown below for service as designated below:

/ X / By First Class Mail - I caused each such envelope, with first-class postage thereon fully prepaid, to be deposited in the United States mail at San Francisco, California.

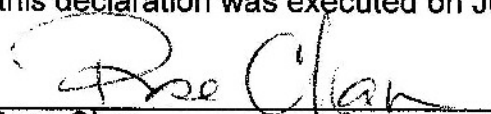
/ / By Hand Delivery - I caused each such envelope, to be hand delivered to said address(es).

/ / By Facsimile - By transmitting a facsimile copy of the above document(s) to the following addressee(s) at the following facsimile number(s):

Addressee(s)

James Troy Walker
P.O. Box 9301
Vallejo, CA 94591
Tel: 707-315-3310
[In Pro Per]

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on July 10, 2007, at San Francisco, California.


Rose Chan